

Message Text

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FM AMCONSUL ISTANBUL

TO AMEMBASSY ANKARA PRIORITY

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C O N F I D E N T I A L ISTANBUL 2672

E.O. 11652: GDS

TAGS: CASC, TU (HAYES, WILLIAM)

SUBJECT: WILLIAM HAYES

REF: ISTANBUL 2475

1. CONOFF MET AUGUST 15 WITH HAMDI UGE, CHIEF COUNSEL FOR BILL HAYES, AND WENT OVER FOLLOWING POINTS WHICH BEAR ON DISCUSSIONS UNDERTAKEN AUGUST 14 ANKARA MEETING:

2. APPEAL BY HAYES. SHOULD HAYES RECEIVE EXPECTED 30-YEAR SENTENCE AT SEPTEMBER 10 HEARING, UGE SEES NO GROUNDS FOR APPEAL BY HAYES, SINCE SUPREME COURT HAS ALREADY RULED ON CENTRAL QUESTION, I.E., WHETHER BILL SHOULD BE TRIED UNDER ARTICLE 403 OR 404. FURTHER, HE STATED THERE ARE NO LEGAL PROVISIONS ENABLING APPEAL SOLELY TO SEEK Milder PENALTY FOLLOWING A THIRTY-YEAR SENTENCE UNDER ARTICLE 403, WITH APPLICATION OF ARTICLE 59. IN ADDITION, HE ASSERTED THAT EVEN IF JUDGES CHOSE NOT TO INVOKE ARTICLE 59 AND SENTENCED BILL TO LIFE IMPRISONMENT, THE FAILURE TO INVOKE THE ARTICLE COULD NOT BE APPEALED. ACCORDING UGE, INVOCATION OF ARTICLE 59 SOLELY PREROGATIVE OF SENTENCING COURT.

3. TURKISH LAW 647. CONOFF, REFERRING TO AUGUST 24 CONVERSATION WITH UGE'S COLLEAGUE ONUR, IN WHICH ONUR CLAIMED THAT CONCERNED TURKISH AUTHORITIES AND HAD ASSURED HIM FAVORABLE RECEPTION FOR ANY U.S. REQUEST APPLY 647 IN HAYES CASE, ASKED
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WHO SPECIFICALLY WAS ONUR'S SOURCE. UGE REPLIED THAT SOURCE

WAS AN OFFICIAL IN MIN OF JUSTICE, BUT THAT HE COULD NOT RECALL NAME. HE WOULD SEEK TO LEARN NAME FROM ONUR, WHO NOW OUT OF TOWN. COMMENT. CONOFF HAS NO REASON TO DOUBT SUCH CONVERSATION TOOK PLACE, SINCE SUBSTANCE CORROBORATED BY INFO RECEIVED FROM OTHER SOURCES, E.G., DANISH CONGEN, ETC.

4. PRESIDENTIAL PARDON. UGE PREFERS PRESIDENTIAL PARDON TO OTHER POST-SENTENCING OPTIONS NOW UNDER CONSIDERATION, BUT WITH NEW TWIST. HE BELIEVES ACTION SHOULD BE INITIATED AT TOP BY AMBASSADOR RATHER THAN BY BILL HIMSELF. WHILE HE AGREES THAT EMBASSY RESEARCH INDICATING PARDONS RARELY GRANTED IS CORRECT, HE ENCOURAGED BY SUCCESS HE CLAIMS SWISS HAD IN SIMILAR CIRCUMSTANCES SOMETIME IN THE 1960'S. ACCORDING UGE, SWISS AMBASSADOR APPEALED DIRECTLY TO THE THEN PRESIDENT ASKING THAT SOMETHING BE DONE TO FREE A SWISS NATIONAL THEN INCARCERATED IN TURKEY. THE PRESIDENT IN TURN ASKED MINISTRY OF JUSTICE TO FIND A WAY TO FREE THE MAN AND MINISTRY OF JUSTICE PRODUCED A RECOMMENDATION FOR A PRESIDENTIAL PARDON ON BASIS OF AN ALLEGED SERIOUS HEALTH CONDITION. AS UGE SEES IT, A PARDON REQUEST FOR BILL SHOULD BE HANDLED IN SAME WAY. HE FEELS THAT A REQUEST COMING UP THROUGH THE BUREAUCRACY WOULD BE CUT OFF AT A VERY EARLY STAGE AND THAT SUBSEQUENT REVERSAL OF EARLIER NEGATIVE DECISION WOULD BE DIFFICULT. UGE HAS PROMISED TO SUPPLY SPECIFIC DATE SOONEST RE NAME OF BENEFICIARY OF PARDON AND DATE OF EVENT, WHICH CONGEN WILL PASS ON TO EMBASSY. EMBASSY MAY WISH INVESTIGATE THIS MATTER WITH SWISS EMBASSY.

5. PERHAPS MOST ENCOURAGING DEVELOPMENT OF DAY OCCURRED FOLLOWING DEPARTURE UGE WHEN CONGEN RESEARCHED IZMIR COURT DECISION IN CASE AMCIT JAMES MENTON WHO ARRESTED UNDER NOT TOO DISIMILAR CIRUCMSTANCES IN JULY, 1969, AND WHO SENTENCED MAY 18, 1970 TO TEN YEARS. DECISION REVEALS SURPRISINGLY THAT MENTON CONVICTED TO LIFE IMPRISONMENT UNDER ARTICLE 403, 1/2, BUT REDUCED TO TEN YEARS IN ACCORDANCE WITH LAST PARAGRAPH OF ARTICLE 404, ON GROUNDS THAT ACCUSED ASSISTED POLICE IN LOCATING ALL THE NARCOTICS HIDDEN IN VARIOUS PLACES IN HIS CAR AT TIME OF ARREST. WHILE CONGEN HAS NOT HAD CHANCE TO DISCUSS WITH UGE IMPLICATIONS THIS DECISION, WE FEEL THAT THIS VALUABLE PRECEDENT MAY WELL BE APPLICABLE IN HAYES CASE, PARTICULARLY SINCE AT MOMENT CONFIDENTIAL

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HAYES APPARENTLY HAS NO DEFENSE AT ALL, OTHER THAN SEEKING APPLICATION OF ARTICLE 59 AFTER PASSING OF LIFE SENTENCE.

6. COPIES OF MENTON DECISION BEING SUPPLIES TO UGE AND TO EMBASSY BY POUCH.
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